



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

HELFGOTT & KARAS, P.C.  
Empire State Building, 60th Floor  
New York, NY 10118-0110

**COPY MAILED**

**SEP 28 2006**

**OFFICE OF PETITIONS**

In re Application of

Ito, et al.

:

Application No. 09/741,509

: **DECISION ON PETITION**

Filed: December 19, 2000

:

Attorney Docket No. FUJ 17.715

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2006, and in duplicate on August 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 28, 2004, which set a shortened statutory period for reply of three months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on July 29, 2004. A Notice of Abandonment was mailed on December 14, 2004.

The amendment filed August 15, 2006, is noted.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results

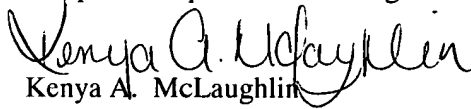
in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. Accordingly, the "Change of Correspondence Address", filed July 21, 2006, cannot be entered at this juncture. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Deposit account 50-1290 was charged twice for the instant petition. The amount of \$1,500.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2100, GAU 2141 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

  
Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

cc:  
Linda S. Chan  
Katten Muchin Rosenman, LLP  
575 Madison Avenue  
New York, NY 10022-2585